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A DECLARATION OF THE Lords and Commons IN PARLIAMENT,

CONCERNING

His Majesties Proclamation, given at His Court at *York*, the 27. of *May*, 1642.

With the Statute of the 7. *Edw.* 1.

England Parliament

Die Lunæ, Iunii 6. 1642.

Ordered by the Lords and Commons in Parliament, That this Declaration be forthwith Printed and Published.

Ioh. Brown, cleric. Parliament.

LONDON,
Printed for *William Gaye*, *Iune* 8. 1642.

A Declaration of the Lords and Commons in *Parliament*, concerning his Majesties Proclamation the 27. of *May* 1642.

THe Lords and Commons having perused His Majesties Proclamation, forbidding all His Majesties Subjects, belonging to the Trained-Bands, or *Militia* of this Kingdome, to rise, march, muster, or exercise, by virtue of any Order or Ordinance of any one or both Houses of Parliament, without consent or Warrant from His Majesty, upon paine of punishment according to the Lawes,

Doe thereupon declare, That neither the Statute of the seventh of *Edward* the first therein vouched, nor any other Law of this Kingdome doth restraine, or make void the Ordinance agreed upon by both Houses of Parliament, for the ordering and disposing the *Militia* of the Kingdome, in this time of extreme and imminent danger, nor expose His Majesties Subjects to any punishment for obeying the same, Notwithstanding that His Majesty hath refused to give his Consent to that Ordinance; But ought to be obeyed by the fundamentall Lawes of this Kingdome.

The Declaration of 7. Ed. 1. Quoted in His Majesties Proclamation, runneth thus.

THe King to the Iustices of His Bench sendeth greeting: Whereas of late before certaine Persons deputed to treat upon sundry debates, had between Vs, and certain great men of Our Realme, Amongst other things it was accorded, That in Our next Parliament, after provision shall be made by Vs, and the common Assent of the Prelates, Earles, and Barons, That in all Parliaments, Treaties, and other Assemblies which should be made in the Realme of England for ever, That every man shall come without all force and Armour, well and peaceably to the Honour of Vs, and the peace of Vs and Our Realm. And now in our next Parliament at Westminster, *after the said Treaties, the Prelates, Earles, Barons, and the Commonalty of Our Realm there Assembled, to take Advice of this businesse have said, That to Vs it belongeth, and Our part is through Our Royall Seigniory straightly to defend force of Armour, and all other force against Our Peace at all times when it shall please Vs, and to punish them which shall do contrary according to Our Lawes and Vsages of Our Realme.*

And hereunto they are bound to aide us, as their Soveraigne Lord at all seasons, when need shall be. We command you, that you cause these things to be read afore you in the said Bench, and there to be Inrolled.

Given at Westminster the thirtieth day of October.

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THe occasion of this Declaration was for the restraint of Armed men from comming to the Parliament, to disturb the Peace of it, and is very improperly alledged for the maintenance of such Leavies, as are now raised against the Parliament. The title of the Statute being thus, To all Parliaments, and Treaties, every man shall come without Force and Armes. So that the Question is not, whether it belong to the King or no to restrain such force; But if the King shall refuse to discharge that Duty and Trust, Whether there is not a power in the two Houses, to provide for the safety of the Parliament, and Peace of the Kingdome, which is the end, for which the Ordinance concerning the *Militia* was made, and being agreeable to the scope and purpose of the Law, cannot in Reason bee adjudged to bee contrary to it; For although the Law doe affirme it to bee in the King, yet it doth not exclude those, in whom the Law hath placed a power for that purpose; As in the Courts of Justice, the Sheriffs, and other Officers and Ministers of those Courts. And as their power is derived from the King by His Patents, yet cannot it be restrained by His Majesties command, by His great Seale, or otherwise, much lesse can the Power of Parliament be concluded by His Majesties command, because the Authority thereof is of a higher, and more eminent nature, than any of those Courts.

It is acknowledged, That the King is the Fountaine of Justice, and Protection; But the Acts of Justice, and Protection, are not exercised in His owne Person, nor depend upon His pleasure, but by His Courts, and by His Ministers, who must doe their Duty therein, though

the King in his owne Person should forbid them; And therefore, if Judgements should be given by them against the Kings Will and Personall command, yet are they the Kings Judgements.

The High Court of Parliament, is not onely a Court of Judicature, enabled by the Lawes, to adjudge, and determine the Rights, and Liberties of the Kingdome, against such Patents, and Grants of His Majesty, as are preiudiciall thereunto; although strengthened both by His Personall Command, and by His Proclamation, under the great Seale: But it is likewise a Councell to provide for the necessities, prevent the imminent dangers, and preserve the publike Peace and safety of the Kingdome, and to declare the Kings pleasure in those things as are requisite thereunto; and what they doe herein, hath the Stamp of Royall Authority, although His Maiesty seduced by evill Counsell, doe in His owne Person, oppose, or interrupt the same. For the Kings Supreame Power, and Royall Pleasure, is exercised and declared in this High Court of Law, and Councell, after a more eminent and obligatory manner, then it can be by any personall Act or Resolution of His Own.

Seeing therefore the Lords and Commons, which are His Maiesties great and Highest Councell, have ordained, That for the present and necessary Defence of the Realme, the Trained Bands, and *Militia* of this Kingdome should bee ordered according to that Ordinance, And that the Towne of *Hull* should bee committed to the Custody of Sir *John Hotham*, to be preserved from the attempts of Papists and other malignant persons, who thereby might put the Kingdome into a combustion, which is so farre from being a Force against the Kings peace,

peace, that it is necessary for the keeping and securing thereof, and for that end alone is intended: and all his Majesties loving Subjects, as well by that Law as by other Lawes, are bound to bee obedient thereunto, and what they doe therein is according to that Law to bee interpreted to bee done in ayd of the King, in discharge of that Trust which he is tied to performe: and it is so farre from being liable to punishment, that if they should refuse to do it, or be perswaded by any Commission or Command of his Majesty to do the contrary, they might justly be punished for the same, according to the Lawes and Usages of the Realm: for the King, by his Soveraignty, is not enabled to destroy his people, but to protect and defend them; and the high Court of Parliament, and all other his Majesties Officers, and Ministers, ought to bee subservient to that Power and Authority, which the Law hath placed in his Majesty to that purpose, though he himselfe in his owne person should neglect the same.

Wherefore the Lords and Commons doe declare the said Proclamation to be voyd in Law, and of none effect, For that by the Constitution and Policy of this Kingdom, the King by his Proclamation cannot declare the Law contrary to the Judgement and Resolution of any of the inferiour Courts of Justice, much lesse against the High Court of Parliament; for if it were admitted, that the King by his Proclamation may declare a Law, thereby his Proclamations will in effect become Lawes, which would turne to the subverting of the Law of the Land, and the Rights, and Liberties of the Subjects.

And the Lords and Commons do require and command, all Constables, Petty-Constables, and all other his Majesties

jesties Officers, and Subjects whatsoever, to Muster, Levie, raise, March and Exercise, or to Summon or Warne any upon Warrant from the Lievtenants, Deputy-Lievtenants, Captaines, or other Officers of the Trained Bands, and all others according to the said Ordinance of both Houses; and shall not presume to Muster, Levie, Raise, March, or Exercise, by vertue of any Commission, or other Authority whatsoever, as they will answer the contrary at their perils; and in their so doing, they do further declare, That they shall bee protected by the Power and Authority of both Houses of Parliament; And that whosoever shall oppose, question, or hinder them in the execution of the said Ordinance, shall bee proceeded against as violaters of the Laws, and disturbers of the peace of the Kingdom.

FINIS.